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January 25, 2016

VIA ECF

Honorable Vernon S. Broderick
United States District Judge
United States District Court, Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 518
New York, NY 10007

Re: Amended Protective Order
In re Application of Hornbeam Corporation,
U.S.D.C., S.D.N.Y., 14 Misc. 424, Part 1, (VSB)

Dear Judge Broderick:

We represent applicant Hornbeam Corporation ("Hornbeam"), the applicant in the above-referenced action and write in response to the Amended Protective Order circulated by the Court on January 19, 2016.

The Amended Protective Order clearly demonstrates that the Court has considered both parties' arguments and carefully determined the appropriate scope.

With respect to paragraph 15(c)'s one-year limitation, Hornbeam appreciates that the Court expressly provides for an extension of this time period. Hornbeam has maintained the position that it is diligently working to gather sufficient information before commencing new foreign proceedings in the British Virgin Islands and possibly elsewhere. As the Court is likely aware, Symeou has employed an all-or-nothing approach to discovery. Indeed, Symeou has expressly stated that he will appeal and seek a stay of an order that allows for the production or use of information, as he has (along with Halliwell Assets, Inc.) in the Eleventh Circuit. If Symeou's delay tactics are effective, the one-year period could easily lapse without Hornbeam being able to obtain or use sufficient information to substantiate its claims. Hornbeam assumes that these are the types of good cause that the Court would consider in granting a future request for an extension.

But, to the extent it will avoid unnecessary objection to Hornbeam's possible request to extend the one-year period, perhaps the Court would consider revising the language to paragraph 15(c) as follows:

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The Responsive Materials must be destroyed if Hornbeam does not initiate the BVI Litigation within one year of the date of the issuance of this Amended Protective Order. The one-year period shall automatically be extended by the amount of time that this Court or the United States Court of Appeals for the Second Circuit stays the use of the Response Materials. Any Party may request an extension of this one-year deadline by letter motion to this Court, and non-requesting party can object by letter within three business days.

Hornbeam reserves its right to seek to revise the Amended Protective Order by agreement of the parties or further Order of the Court.

Notwithstanding the above, Hornbeam is prepared to sign the Court's proposed Amended Protective Order to resolve this dispute.

Very truly yours,

HOLLAND & KNIGHT LLP

/s James H. Power
James H. Power

cc: All parties (*via ECF*)